

## REMARKS

Reconsideration of the present application is respectfully requested.

Claims 1-17 are pending in the application.

In the Office Action, the Examiner objected to Claims 8-17 because of informalities. The Examiner rejected Claims 1-10 and 12-14 under 35 U.S.C. §112, second paragraph, for indefiniteness. The Examiner rejected Claims 1 and 8 under 35 U.S.C. §101, as being directed to non-statutory subject matter.

It is gratefully acknowledged that the Examiner has not rejected the claims in view of any prior art, and has indicated that Claims 2-7 and 10-17 would be allowable if re-written to overcome the §112 rejections and to include the limitations of the base claim and any intervening claims.

Please cancel Claims 8 and 9, without prejudice. Please amend Claims 1, 10-12 and 15 as set forth herein. No new matter has been added.

Regarding the objection to Claims 8-17, the Examiner alleges that Claims 8 and 9, respectively, are substantial duplicates of Claims 1 and 2. Accordingly, Claims 8 and 9 have been cancelled, as indicated above, and Claim 10 has been amended herein to be dependent on Claim 2 instead of Claim 9. It is believed that this amendment cures the objection as to duplicate claims. Withdrawal of the same is respectfully requested.

Further regarding the claim objections, the Examiner alleged informalities in Claims 11, 12 and 15. In response, line 2 of Claim 11 has been amended to delete "on" (second recitation) and insert --one-- therefor, to correct a typographical error; in Claim 12, line 4, between "in" and "memories", --the-- has been inserted to properly relate back to the preceding "two memories"; and in Claim 15, line 2, "data packet" has been deleted and --packet data-- has been inserted

therefor, as this recitation was mistakenly in reverse. It is believed that these amendments overcome the claim objections; thus, withdrawal of the same is respectfully requested.

Regarding the §112 rejection of Claims 1-10 and 12-14, the Examiner alleges that it is unclear how the difference would be calculated with only one channel state value. Applicants respectfully traverse, and respectfully present the following explanation to the Examiner. The preamble of Claim 1 recites, in part, determining a transmission format of packet data between first and second formats, based on “at least one channel state value” representing a change in mobile station-requested transmission rate. In the body of Claim 1, particularly in step a), “received channel state values” are sequentially stored. It is adjacent ones of these “values” between which the differences are calculated in step b), and not the “value” recited in the preamble of the claim. Accordingly, it is respectfully submitted that Claim 1 is, in fact, definite, and that this portion of the §112 rejection should be withdrawn. Withdrawal of the same is respectfully requested.

Further regarding the §112 rejection, the Examiner alleges a lack of antecedent basis in Claims 8 and 12. In response, Claim 8 has been canceled, as discussed above, which is believed to render the rejection thereto moot. As to Claim 12 --to receive a sum, -- has been inserted between “calculators” and “and” in line 7. It is respectfully submitted that this amendment provides an antecedent basis for “the sum” in line 7, and cures the rejection. It is believed that the preceding cures the §112 rejection of Claims 1-10 and 12-14 in its entirety. Withdrawal of the same is respectfully requested.

Regarding the §101 rejection of Claims 1 and 8, the Examiner alleges the calculating and determining steps in Claims 1 and 8 produce no useful, concrete and tangible result. Claim 8 have been canceled, which renders the rejection thereto moot. As to Claim 1, Applicants respectfully traverse.

Claim 1 sets forth calculating differences between all adjacent channel state values, and determining the transmission format of packet data according to the calculated differences.

Respectfully, it is unclear how this recitation is non-statutory as the Examiner alleges, when the calculated differences indeed produce a useful, concrete and tangible result, that being the transmission format of the packet data. In fact, the calculation and determining steps are critical to Claim 1, as without them, there could be no determination of the transmission format of the packet data. Although Claim 1 does not recite each and every step of the calculation and determination in step b), it is respectfully asserted that the claim needn't do so as long as the subject matter therein sets forth, in this case, "any new and useful process". Applicants respectfully submit that the method steps recited in Claim 1 set forth, in fact, a "new and useful process", and that the §101 rejection of Claims 1 and 8 should therefore be withdrawn. Withdrawal of the same is respectfully requested.

Independent Claims 1 and 11 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2-7, 10 and 12-17, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2-7, 10 and 12-17 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-7 and 10-17 are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicants' attorney at the number given below.

Respectfully submitted,



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